

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL**

**FOR: CENTERS FOR MEDICAID AND MEDICAID SERVICES**

TO: REGIONAL ADMINISTRATOR  
HEALTH CARE FINANCING ADMINISTRATION  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

1. TRANSMITTAL NUMBER:  
TN 03-002

2. STATE  
Ohio

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE  
SOCIAL SECURITY ACT (MEDICAID) Title XIX

4. PROPOSED EFFECTIVE DATE  
January 1, 2003

5. TYPE OF PLAN MATERIAL (Check One):

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:  
Section 1902 (a)(13)(A) of the Social Security Act

7. FEDERAL BUDGET IMPACT:  
a. FFY 2003 \$ -0-  
b. FFY 2004 \$ -0-

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Attachment 4.19D rules: 5101:3-3-20.3 (new)  
5101:3-3-51.5  
5101:3-3-51.6  
5101:3-3-84.2

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION  
OR ATTACHMENT (If Applicable):

Attachment 4.19D rule: 5101:3-3-51.5  
5101:3-3-51.6  
5101:3-3-84.2

10. SUBJECT OF AMENDMENT:

The Ohio Administrative Code rules contained in this amendment reflect the codification of long-term care facility reimbursement provisions previously specified in technical procedure bulletins.

11. GOVERNOR'S REVIEW (Check One):

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT  
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED  
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

☒ OTHER, AS SPECIFIED:

12. SIGNATURE OF STATE AGENCY OFFICIAL:

*Thomas J. Hayes*

13. TYPED NAME:

Thomas J. Hayes

14. TITLE:

Director

15. DATE SUBMITTED:

February 7, 2003

16. RETURN TO:

Becky Jackson  
Bureau of Health Plan Policy  
Ohio Department of Job and Family Services  
30 East Broad Street, 27<sup>th</sup> floor  
Columbus, Ohio 43215-3414

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED:

2-11-03

18. DATE APPROVED:

APR 25 2003

**PLAN APPROVED - ONE COPY ATTACHED**

19. EFFECTIVE DATE OF APPROVED MATERIAL:

JAN - 1 2003

20. SIGNATURE OF REGIONAL OFFICIAL:

*Brian J. Smith*

21. TYPED NAME:

Charlene Brown

22. TITLE:

Deputy Director, CMSO

23. REMARKS:

**RECEIVED**

FEB 11 2003

DMCH - IL/IN/OH

Attachment 4.19D

Page 1 of 3

5101:3-3-20.3

Leased staff reimbursement for nursing facilities (NFs) and intermediate care facilities for the mentally retarded (ICFs-MR).

(A) "Leased staff services" means services provided by staff who are furnished to a NF or ICF-MR by a leasing firm under contract with the facility.

(B) Costs related to staff leasing are reimbursable as other/contracted costs if all of the following apply:

(1) The NF or ICF-MR has contracted for leased staff through an established staff leasing firm. An established staff leasing firm is one that is, and over a period of time has been, in the business of leasing staff in a variety of industries. Individuals with a variety of skills are generally included in the contractual agreement between the long-term care facility and the staff leasing firm.

(2) The leased staff are present in the NF or ICF-MR on a consistent basis. It is the responsibility of provider to maintain documentation showing continuity in staff.

(3) The contract between the NF or ICF-MR and the staff leasing firm is for a period of one year or more.

(4) The NF or ICF-MR maintains control over the day-to-day management of leased staff.

(C) Staff leasing arrangements are reimbursable through the medicaid NF and ICF-MR cost reporting mechanism in the following manner.

(1) The wage component of fees paid to the staff leasing firm are reported in the direct care, indirect care, and other protected cost centers in other/contract wages (column 2) of the medicaid cost report as defined in 5101:3-3-20.1 of the Administrative Code, for the applicable accounts.

(2) The payroll taxes and employee benefits portion of fees paid to the staff leasing firm are reported in the direct care, indirect care, and other protected cost centers in other/contract wages (column 2) of the medicaid cost report as defined in 5101:3-3-20.1 of the Administrative Code, for the applicable accounts on the basis of dollars allocated to the appropriate employee benefit and payroll accounts.

(3) The payroll administration portion of fees paid to the staff leasing firm not identified as wages or benefits are reported in account 7305 administrative and general services, other indirect care (column 2) of the medicaid cost report as defined in 5101:3-3-20.1 of the Administrative Code. Payroll administration fees paid to a staff leasing firm meeting the definition of related parties as defined in 5101:3-3-01 of the Administrative Code are not reimbursable beyond those expenses that would be reimbursable if incurred

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APR 25 2003

SUPERSEDES

TN # new EFFECTIVE DATE 01/01/03

5101:3-3-20.3

2

by the provider itself.

(D) It is the provider's responsibility to maintain adequate documentation of the staff  
leasing costs.

APR 25 2003  
TN # 03-002 APPROVAL DATE \_\_\_\_\_  
SUPERSEDES  
TN # new EFFECTIVE DATE 01/01/03

5101:3-3-20.3

Effective: 01/01/2003

R.C. 119.032 review dates: 01/01/2008

CERTIFIED ELECTRONICALLY

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Certification

12/12/2002

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Date

Promulgated Under: 119.03  
Statutory Authority: 5111.02  
Rule Amplifies: 5111.23, 5111.24

APR 25 2003

TN # 03-02 APPROVAL DATE \_\_\_\_\_

SUPERSEDES

TN # new EFFECTIVE DATE 01/01/03

The desk-reviewed actual, allowable, per diem cost of ownership for rent or lease expense of a NF including any major components and major moveable equipment established in this rule is subject to the provisions set forth under rule 5101:3-3-51 of the Administrative Code. A NF which has lease expense as defined under paragraph (A) of this rule, will receive a per diem based upon the cost as specified in this rule. The lease expense directly attributable to the lease of property and equipment from one related party to another through common ownership or control as defined under rule 5101:3-3-01 of the Administrative Code shall be based upon the lesser of the actual lease expense of property and equipment as defined in this rule or the actual costs of the related party.

(A) For the purposes of this rule, the following definitions are applicable.

(1) "Lease expense" means the following:

(a) Lease payments in the case of an operating lease; or

(b) Depreciation and interest expense (amortization of capitalized lease expense) in the case of a capital lease.

(2) "Initial lease" means the lease agreement that was in effect on the first day the lessor and the lessee established the contractual agreement.

~~(2)~~(3) "New lease" means any lease entered into that involves a change in lessee.

~~(3)~~(4) "Old lease" means the lease immediately preceding the new lease.

~~(4)~~(5) "Renewal of a lease" means an extension of a lease agreement with no change in the parties to the lease.

~~(5)~~(6) "Inception of the lease" means the first day the lease is effective.

~~(6)~~(7) "Lessor's historical capital asset cost basis" means the total cost that the lessor reported in his financial records as the cost basis of the assets included in the lease at the inception of the lease.

~~(7)~~(8) "Imputed interest rate" means the prime rate as published in the federal reserve statistical release H. 15, "selected interest rates" on the first business day of the calendar year plus four per cent, but not to exceed fifteen per cent.

~~(8)~~(9) "Substantial commitment of money" means a significant and irrevocable financial obligation must be incurred. This may be evidenced by the start of

APR 25 2003

TN #03-002 APPROVAL DATE

SUPERSEDES

TN #02-010 EFFECTIVE DATE 01/01/03

5101:3-3-51.5

2

construction, actual cash expenditures in excess of ten per cent of the total project costs, or evidence that irrevocable contractual agreements have been executed.

(B) For a lease of a NF that was effective on May 27, 1992, the entire lease expense is an actual, allowable cost of ownership during the term of the existing lease. The entire lease expense also is an actual, allowable cost of ownership if a lease in existence on May 27, 1992, is renewed under either of the following circumstances:

- (1) The renewal is pursuant to a renewal option that was in existence on May 27, 1992; or
- (2) The renewal is for the same lease payment amount and between the same parties as the lease in existence on May 27, 1992.

(C) For an initial lease of a NF that was in existence but not operated under a lease on May 27, 1992, actual, allowable cost of ownership includes the lesser of the following:

- (1) The annual lease expense; or
- (2) The portion of the annual lease expense that is equal to an imputed expense for depreciation and interest calculated at the inception of the lease using the lessor's historical capital asset cost basis. The imputed expense is calculated below:

(a) Adjust the lessor's historical capital asset cost basis by the lesser of:

- (i) One-half of the change in construction costs during the time the lessor held each asset until the beginning of the lease, as calculated by Ohio department of job and family services (ODJFS) using the "Dodge Building Cost Indexes, Northeastern and North Central States," published by Marshall and Swift; or
- (ii) One-half of the change in the "Consumer Price Index for All Items for All Urban Consumers," as published by the United States bureau of labor statistics, during the time that the lessor held each asset until the beginning of the lease.

(b) Imputed depreciation expense shall be based on the allowable cost basis as determined under paragraph (C)(2)(a) of this rule. For purposes of calculating the imputed depreciation expense, the lessee shall:

TN #03-02 APPROVAL DATE APR 25 2003

SUPERSEDES

TN #02-010 EFFECTIVE DATE 01/01/03

5101:3-3-51.5

3

- (i) Separate the leased assets into three accounts and depreciate the separated leased assets using the following useful lives:
  - (a) "Land" is not depreciated; and
  - (b) "Buildings" include buildings and renovations completed by the lessor and shall be depreciated over a thirty-three-year useful life; and
  - (c) "Equipment" is all assets not included in land or buildings and shall be depreciated over a ten-year useful life.
- (ii) A depreciation schedule established at the inception of the lease shall be used to determine the annual imputed depreciation expense.
- (iii) In the case of a capital lease, report double accumulated depreciation in an amount equal to twice the depreciation expense incurred on its cost report for the first year of operation under the lease if the provider requests a rate adjustment for the change in lease.
- (c) Imputed interest expense shall be based on the allowable cost basis as determined under paragraph (C)(2)(a) of this rule. For purposes of calculating the imputed interest expense, the lessee shall:
  - (i) Assume an amortization period of thirty-three years.
  - (ii) Calculate the imputed interest rate for the first year of operation under the lease.
  - (iii) An amortization schedule established at the inception of the lease shall be used to calculate the annual imputed interest expense, except as provided under paragraph (C)(2)(c)(v) of this rule.
  - (iv) The imputed interest rate shall be recalculated on the first business day of January following five calendar years of operation and every five years thereafter.
  - (v) A revised amortization schedule shall be established each time the

TN #03-002 APPROVAL DATE **APR 25 2003**

SUPERSEDES

TN #02-010 EFFECTIVE DATE 01/01/03

5101:3-3-51.5

4

imputed interest rate is recalculated under paragraph (C)(2)(c)(iv) of this rule using the recalculated imputed interest rate, the remaining amortization period and the unamortized balance from the previous amortization schedule.

(D) For a lease of a NF with a date of licensure on or after May 27, 1992, that is initially operated under a lease, actual, allowable cost of ownership shall include the annual lease expense if there was a substantial commitment of money for construction of the NF after December 22, 1992, and before July 1, 1993.

(E) For a lease of a NF with a date of licensure on or after May 27, 1992, that is initially operated under a lease, and there was not a substantial commitment of money for construction of the NF after December 22, 1992, and before July 1, 1993, actual, allowable cost of ownership shall include the lesser of the following:

(1) The annual lease expense; or

(2) The portion of the annual lease expense that is equal to an imputed expense for depreciation and interest calculated at the inception of the lease using the lessor's historical capital asset cost basis. The imputed expense is calculated below:

(a) Imputed depreciation expense shall be based on the lessor's historical capital asset cost basis. For purposes of calculating the imputed depreciation expense, the lessee shall:

(i) Separate the leased assets into three accounts and depreciate the separated leased assets using the following useful lives:

(a) "Land" is not depreciated; and

(b) "Buildings" include buildings and renovations completed by the lessor and shall be depreciated over a thirty-three-year useful life; and

(c) "Equipment" is all assets not included in land or buildings and shall be depreciated over a ten-year useful life.

(ii) A depreciation schedule established at the inception of the lease shall be used to determine the annual imputed depreciation expense.

TN # 03-002 APPROVAL DATE APR 25 2003

SUPERSEDES

TN # 02-010 EFFECTIVE DATE 01/01/03

- (iii) In the case of a capital lease, report double accumulated depreciation in an amount equal to twice the depreciation expense incurred on its cost report for the first year of operation under the lease if the provider requests a rate adjustment for the change in lease.

(b) The greater of the imputed interest expense calculated below:

- (i) The lessor's actual annual amortization of financing costs and interest expense; or

- (ii) Imputed interest expense based on seventy per cent of the lessor's historical capital asset cost basis. For purposes of calculating the imputed interest expense, the lessee shall:

- (a) Assume an amortization period of thirty-three years.

- (b) Calculate the imputed interest rate for the first year of operation under the lease.

- (c) An amortization schedule established at the inception of the lease shall be used to calculate the annual imputed interest expense, except as provided under paragraph (E)(2)(b)(ii)(e) of this rule.

- (d) The imputed interest rate shall be recalculated on the first business day of January following five calendar years of operation and every five years thereafter.

- (e) A revised amortization schedule shall be established each time the imputed interest rate is recalculated under paragraph (E)(2)(b)(ii)(d) of this rule using the recalculated imputed interest rate, the remaining amortization period and the unamortized balance from the previous amortization schedule.

(F) For a lease of a NF with a date of licensure on or after May 27, 1992, that was not initially operated under a lease and has been in existence at least ten years, actual, allowable cost of ownership shall include the lesser of the following:

- (1) The annual lease expense; or

TN #~~03-002~~ APPROVAL DATE \_\_\_\_\_

SUPERSEDES

TN #03-010 EFFECTIVE DATE 01/01/03

APR 25 2003

5101:3-3-51.5

(2) The portion of the annual lease expense that is equal to an imputed expense for depreciation and interest calculated at the inception of the lease using the lessor's historical capital asset cost basis. The imputed expense is calculated below:

(a) Adjust the lessor's historical capital asset cost basis by the lesser of:

(i) One-half of the change in construction costs during the time the lessor held each asset until the beginning of the lease, as calculated by ODJFS using the "Dodge Building Cost Indexes, Northeastern and North Central States," published by Marshall and Swift; or

(ii) One-half of the change in the "Consumer Price Index for All Items for All Urban Consumers," as published by the United States bureau of labor statistics, during the time that the lessor held each asset until the beginning of the lease.

(b) Imputed depreciation expense shall be based on the allowable cost basis as determined under paragraph (F)(2)(a) of this rule. For purposes of calculating the imputed depreciation expense, the lessee shall:

(i) Separate the leased assets into three accounts and depreciate the separated leased assets using the following useful lives:

(a) "Land" is not depreciated; and

(b) "Buildings" include buildings and renovations completed by the lessor and shall be depreciated over a thirty-three-year useful life; and

(c) "Equipment" is all assets not included in land or buildings and shall be depreciated over a ten-year useful life.

(ii) A depreciation schedule established at the inception of the lease shall be used to determine the annual imputed depreciation expense.

(iii) In the case of a capital lease, report double accumulated depreciation in an amount equal to twice the depreciation expense incurred on its cost report for the first year of operation under the

APR 25 2003

TN #03-002 APPROVAL DATE \_\_\_\_\_

SUPERSEDES

TN #02-010 EFFECTIVE DATE 01/01/03